

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK  
BRITTAIN J. PURCELLE,**

**Plaintiff,**

**9:19-cv-405  
(GLS/ML)**

**v.**

**E. VEDDER et al.,**

**Defendants.**

**APPEARANCES:**

**OF COUNSEL:**

**FOR THE PLAINTIFF:**

BRITTAIN J. PURCELLE  
Plaintiff, pro se  
14-B-0600  
Clinton Correctional Facility  
P.O. Box 2000  
Dannemora, NY 12929

and

Volunteers of America  
320 Chenango Street  
Binghamton, NY 13902

**FOR THE DEFENDANTS:**

HON. LETITIA JAMES  
New York State Attorney General  
The Capitol  
Albany, NY 12224

JOHN F. MOORE  
Assistant Attorney General

**Gary L. Sharpe  
Senior District Judge**

**ORDER**

The above-captioned matter comes to this court following a Report and Recommendation (R&R) by Magistrate Judge Miroslav Lovric, duly filed on May 29, 2020. (Dkt. No. 40.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections<sup>1</sup> having been filed, and the court having reviewed the R&R for clear error, it is hereby

**ORDERED** that the Report and Recommendation (Dkt. No. 40) is **ADOPTED** in its entirety; and it is further

**ORDERED** that defendants' motion to dismiss for failure to prosecute (Dkt. No. 38) is **GRANTED**; and it is further

**ORDERED** that plaintiff's complaint (Dkt. No. 1) is **DISMISSED** in its entirety, pursuant to Fed. R. Civ. P. 41(b) and 37(d), based on his failure to prosecute, and comply with this Court's orders and Local Rules of Practice;

---

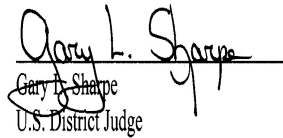
<sup>1</sup> On February 12, 2020, a copy of a text order was mailed to plaintiff at the address listed on the docket. (Dkt. No. 35.) That mailing was returned to the court, hand marked "Released." (Dkt. No. 36.) The deputy clerk noticed that the following address: Volunteers of America, 320 Chenango St., Binghamton, NY 13902 was provided in a declaration of service for plaintiff by defendants. (Dkt. No. 39.) The R&R was provided to plaintiff at that address. (Dkt. No. 40.) On June 8, 2020, the R&R mailed to plaintiff was returned to the court. (Dkt. No. 41.) Plaintiff has failed to keep this court apprised of his residence with the filing of a notice of change of address as required by Local Rule 10.1(c)(2) and 41.2(b).

and it is further

**ORDERED** that the Clerk provide a copy of this Order to the parties in accordance with the Local Rules of Practice and on plaintiff at both addresses provided in this order.

**IT IS SO ORDERED.**

June 29, 2020  
Albany, New York

  
Gary L. Sharpe  
U.S. District Judge